

Exhibit A

Declaration of Erica Hamilton

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

DONNA CURLING, et al;)	
)	
)	
Plaintiffs,)	
)	
v.)	CIVIL ACTION
)	FILE NO: 1:17cv02989-AT
)	
BRIAN P. KEMP, et al.;)	
)	
)	
Defendants.)	

DECLARATION OF ERICA HAMILTON

Pursuant to 28 U.S.C. 1746, Erica Hamilton declares as follows:

1.

I make this Declaration in support of a response by DeKalb County Board of Elections to certain motions filed in the above-styled matter of Donna Curling, et al., v. Brian Kemp, et al., (Civil Action No. 1:17-cv-2989-AT). Specifically, the purpose of this Declaration is to: 1) respond to the allegations in Plaintiffs' Motion to Issue Subpoena Duces Tecum and the Declaration of Rob Kadel by providing a full accounting of the facts as they actually occurred; and 2) to address the facts regarding preservation of evidence related to those DRE machines and other voting equipment sought to be preserved in this matter.

2.

I am the Director of the DeKalb County Department of Registration and Elections (“DeKalb Elections”) and have been employed in that role since November 1, 2017.

3.

On May 5, 2018 Bennett Bryan, the DeKalb County Attorney charged with handling election cases, forwarded me an email from Cary Ichter requesting that two specific DRE Machines as well as the ExpressPolls and scanners used at the South DeKalb Advance Voting Precinct, located at The Gallery at South DeKalb Mall, be “immediately secured by officials from the Secretary of State’s office and DeKalb County and removed from the mall to a secure election officials’ location.” (See, May 5, 2018 email from Carey Ichter, attached as Exhibit “A”).

4.

Mr. Bryan contacted me shortly after receiving the email to devise a plan for complying with Mr. Ichter’s request.

5.

Chris Harvey, Elections Director for the Georgia Secretary of State's Office, agreed to meet me at the South DeKalb Advance Voting Precinct at 2:00 p.m., where we would gather information about the incident, seal and remove the equipment in

question, and provide the Advance Voting Staff with new ExpressPolls for Voter Access Card creation.

6.

At 2:05 p.m., I arrived at the South DeKalb Advance Voting Precinct along with several staff members of the DeKalb County Board of Registration and Elections, bringing with us the new ExpressPolls, Voter Access Cards, and materials needed to securely remove and sequester the equipment in question.

9.

Already present at the site were Chris Harvey and Samuel Tillman, Chairman of the DeKalb County Board of Registration and Elections, as well as DeKalb employees working at the Advance Voting Site.

7.

Prior to sequestering the machines, Mr. Harvey, Mr. Tillman, and I met with the site staff to collect information about the alleged ballot error from the prior afternoon.

8.

Based upon the information gathered it was determined that a male individual entered the South DeKalb Advance Voting site on Friday, May 4, 2018 to cast his ballot for the May 22, 2018 Primary Election. The staff member who served the voter checked his registration status and reviewed his precinct/combo information

via ENET, the Georgia Voter Registration System, and then a Voter Access Card was created for him on ExpressPoll using the drop-down menu system employed for advance voting.

9.

The voter took his Voter Access Card to a DRE machine, but prior to casting his ballot, he notified the staff that the ballot on the screen did not match his sample ballot because he was seeing candidates for the 5th District Congressional Democratic Primary instead of the Democratic Primary for the 6th District where he lives. The staff followed the procedures for cancelling the ballot and issuing another card with the correct districts at which time the voter was able to cast his ballot.

10.

After reviewing the information from staff on Saturday about the ballot error, it was determined that the most likely reason for the incorrect ballot was that the staff member who created the initial Voter Access Card for the voter inadvertently selected the incorrect precinct/combo selection from the ExpressPoll menu. The incorrect precinct/combo selected by the poll worker contained balloting information associated to the 5th Congressional District race and was located directly above the correct precinct/combo selection on the ExpressPoll menu, while the correct precinct/comb selection contained balloting information associated with the 6th Congressional District race.

11.

The ExpressPoll and DRE machines were determined by staff to be working as intended, but we decided to move forward with the sealing and sequestration abundance of caution and in an effort to comply with Plaintiffs' request.

12.

At approximately 2:45 p.m. we began the process of sealing and securing the machines for sequestration. Mr. Harvey watched and documented as the equipment was sealed and removed, and then the ExpressPolls and Voter Access Cards were replaced.

13.

Upon completion of the sequestration process, at or around 3:30pm, we exited the facility and transported the sequestered material to DeKalb County Voter Registration and Elections Office located at 4380 Memorial Drive, Suite 300, Decatur, Georgia 30032.

14.

While transporting the sequestered equipment back to the Voter Registration and Elections Office, I received a call from the employees at the South DeKalb Advance Voting site stating that an individual identifying herself as Marilyn Marks was at the site questioning staff about the process that had taken place. I informed

staff to direct all questions to me. I did not receive a call from Marilyn Marks or any representatives of Plaintiffs.

15.

Although the two DRE machines had been sealed and secured since May 5th, it was still necessary to count the primary votes cast prior to their sequestration so that no voters, including the male voter in question, were disenfranchised. On the evening of May 22, 2018 Primary Election, after the polls were declared closed, I transported the two sequestered DRE Machines from their secure location to the absentee/tabulation area. The two machines were unsealed, the security panels were unlocked, the memory cards removed and uploaded in the presence of State Investigator Shannon Swinney.

16.

The memory cards were uploaded into the GEMS Server using one of the twelve TSX (DRE) Machines dedicated to tabulation. Then the memory cards were placed back into their respective DRE machines, the security panels were locked, and the machines were resealed.

17.

The two individuals that were responsible for unsealing and resealing process were myself and the South DeKalb Precinct Manager, Natasha Atkinson. The cards

were uploaded by personnel from the DeKalb County Information Technology Department. The entire process was documented by Investigator Swinney.

18.

On Monday, June 4, 2018, Sabrina McKenzie, a candidate in the State Senate District 41 “SD41” Primary race, submitted a request for recount to the Georgia Secretary of State’s Office. In response to her request, the Secretary of State ordered a recount to be conducted for the SD41 Democratic Primary on Wednesday, June 6, 2018 before 1:00pm.

19.

Recount procedures set by Georgia Law require election officials to upload all DRE Memory Cards and scan all absentee and provisional ballots pertaining to the recounted office in the same manner that is employed prior to the certification of the election.

20.

On Wednesday, June 6, 2018 the recount for SD41 Democratic Primary was completed, including the unsealing of DRE machines in the same manner as they were on election night. Candidate Sabrina McKenzie and other observers were present for the recount. An explanation of the process used, including the need to retrieve votes from the sequestered machines, was given to all those observing.

21.

During the recount process, Board of Registrations and Elections staff uploaded the memory cards from all precincts that were associated with SD41 onto the twelve (12) TSX (DRE) Units used for tabulation.

22.

To ensure that all memory cards associated with the race had been tabulated, myself and the manager from the South DeKalb Advance Voting Site, Natasha Atkinson, had to break the seals on the sequestered DRE Machines, using scissors, unlock the security panel and remove the DRE Memory Cards from those machines.

23.

The Memory Cards were taken from the two sequestered DRE Machines and placed in one of the twelve TSX (DRE) Units designated for tabulation. The sequestered DRE machines were not used to recount the votes in the SD41 race and were only accessed to ensure the votes from those DRE machines were included in the recount.

24.

Once the DRE Memory Cards were successfully uploaded to GEMS, they were placed back into the sequestered DRE Machines, security panels were locked, and the two DRE Machines were re-sealed. Wire-pliers were used to secure the

seals. All of this was conducted in the presence of Candidate Sabrina McKenzie and the other observers.

25.

Aside from the removal of the memory cards from the sequestered DRE machines for election night tabulation and for the SD41 recount, no other data or media have been introduced into the machines since their sealing and sequestration, nor has any other physical handling of the machines occurred.

26.

In both instances the machines remained turned off and were locked and resealed in the presence of witnesses including the Secretary of State's staff on election night and Democratic SD 41 Candidate Sabrina McKenzie during the recount.

27.

The two DRE machines, along with the other items from the South DeKalb Advance Voting Precinct, are still closed with the seals applied on May 5, 2018 and are sequestered in a secure area that has restricted access.

28.

The DRE Machines and other sequestered items are not only being held at the request of the Plaintiffs in this matter, but are being preserved as evidence that might be relevant for the Election Contest Petition that was filed in DeKalb County

Superior Court on June 12, 2018. Sabrina McKenzie v. Erica Hamilton, et al.;
DeKalb County Superior Court, CAF No.: 18-CV-6095.

29.

At no point has the DeKalb Board of Registration and Elections or its staff destroyed, altered, or otherwise tampered with evidence or data that could be relevant in this lawsuit or any other pending legal action.

30.

Further, no evidence has ever been provided to the DeKalb Board to demonstrate that the continued use of DRE machines and other voting equipment “wipes” or destroys data relevant to this case or other matters. Rather, according to communications with the technical staff of the Secretary of State, data from DRE machines used in all relevant elections at issue in the present litigation is still contained in the archival memory of the DRE machines and was not destroyed by use in subsequent elections, nor would it be destroyed by using it in upcoming elections later this year.

31.

I declare under penalty of perjury that the foregoing is true and correct to the best of my ability.

This 29th day of June, 2018.



Erica Hamilton, Director
DeKalb County Voter Registration and Elections